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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,273	10/23/2001	Tal Givoly	XACTP010	1246
28875	7590	07/03/2007		
Zilka-Kotab, PC P.O. BOX 721120 SAN JOSE, CA 95172-1120			EXAMINER JEAN, FRANTZ B	
			ART UNIT 2151	PAPER NUMBER
			MAIL DATE 07/03/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/039,273

Applicant(s)

GIVOLY ET AL.

Examiner

Frantz B. Jean

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 22 is/are allowed.
- 6) ☒ Claim(s) 1-21 and 23-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

This office action is in response to applicant's response filed on 4/12/07. Claims 1-26 are still pending in this application.

The final rejection has been withdrawn in light of a newfound prior art. Accordingly, applicant's arguments filed on 2/12/07 are moot.

Claim Objections

Claim 11 is objected to because of the following informalities: as discussed with applicant on 6/21/07, please delete tangible and insert storage after readable in the preamble. Appropriate correction is required.

In claim 12, please remove "certain" in certain amount and certain speed in step (e).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 12 recites the limitation "the separate group" in step (c) and "the associated aggregator" in step (e). There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7-15, 17-21 and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bullard US Application Number 2002/0091636 A1 in view of Whitesage US Publication number 2002/0010686.

Claims 1-21, 23-26 are rejected under 35 U.S.C. 102(e) as being anticipated by As per claims 1, 11, 21, and 25-26, Bullard teaches a computer program product, a system and a method for contract-based aggregation (see figs 1, 31; paragraph 0187 and 0193), comprising: (a) receiving records (data collection/record) indicative of network events, wherein the records are received in at least one aggregator (flow aggregation processor/flow data collector) for the purpose of aggregating the records (see figs 1-3; par 0030-0034); (b) identifying contracts associated with the records (fig 31; par 0187, 0191-0193; par 0073-0075); and (c) aggregating the records based at least in part on the contracts using the at least one aggregator (figs 1-3, 8A, 8B, 31; abstract; par 0079; par 0193; par 0040-0041). Bullard fails to explicitly disclose correlating at least one of the contracts with at least one aspect of the received records. Whitesage discloses the steps of correlating (relating) contract with received records (see paragraphs 0040, 0068-0071 and 0087). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Whitesage correlation of contracts with received records to facilitate record aggregation. One skill artisan at the time of the invention would be motivated to do so to accurately identify contracts while providing quality of service that meets the customer need.

As per claims 2 and 12, Bullard teaches a method and a product, wherein the contracts are between a customer and a service provider operating the aggregator (fig 31; par 0045-0047; par 0193).

As per claims 3 and 13, Bullard teaches a method and a computer program product, wherein the contracts are for different levels of services to be provided to the customer (fig 1-3, 31 par 0193).

As per claims 4 and 14, Bullard teaches a method and a computer program product, wherein the contracts are for different services to be provided to the customer (figs 1-3; 31; par 0193); par 0030-0034).

As per claims 5 and 15, Bullard teaches a method and a computer program product, wherein a contract identifier is included as a component of the records (fig 31, 1-3, 8; par 0187; 0191-0193).

As per claims 7 and 17, Bullard teaches a method and a computer program product, wherein an amount of data processed while the records are aggregated is based on the contracts (fig 31, 1-3, 8; par 0187; 0191-0193; par 0030-0034).

As per claims 8, 18, and 23-24, Bullard teaches a method and a computer program

product, wherein the data is selected from the group consisting of a customer identifier, a service identifier, a source identifier, a destination identifier, a records size identifier, and a quality of service identifier (fig 8A-8B; par 0074-0077; par 0097).

As per claims 9 and 19, Bullard teaches a method and a computer program product, and further comprising separating the records into separate groups based on the contracts, and aggregating the records of each group using a separate aggregator (see fig 31; par 0190-0193 separate the records into group, wherein company X information/packet is likely to be transmitted first and have a better service than Company Y because Company X is paying for a better service or has a better contract than Company Y).

As per claims 10 and 20, Bullard teaches a method and a computer program product, and further comprising aggregating the records to generate separate aggregations using a single aggregator (see fig 1-3).

Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bullard US Application Number 2002/0091636 A1 and Whitesage US Publication number 2002/0010686.

As per claims 6 and 16, Bullard and Whitesage fails to teach a speed with which the records are aggregated is based on the contracts. This feature is well known in the art at the time of the invention in order to categorize and classify contract that require more

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time before being aggregated due to certain requirements or size. One skill artisan at the time of the invention would incorporate this feature into Bullard and Whitesage method to improve contract's aggregation.

Claim 22 has been allowed.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Brown (6026368).

Shea et al. 6,064,881 discloses a technique for gathering, sorting and distributing usage data records. The system includes separating/sorting the records into separate groups based on the contracts, and aggregating the records of each group using a separate aggregator (see fig 3, elements 62, 74, 64 and 66; abstract; summary of the invention).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz B. Jean whose telephone number is 571-272-3937. The examiner can normally be reached on 8:30-6:00 M-f.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571 272 3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frantz Jean



FRANTZ B. JEAN
PRIMARY EXAMINER